

REMARKS

This paper is being filed in response to the Office Action mailed on November 28, 2005.

Drawings have been amended. Claims 1 and 3 have been amended. Claim 2 has been cancelled and claims 22 and 23 have been added. The features recited in applicant's new claims 22 and 23 are disclosed on page 8, lines 15-22 of applicant's specification.

A check in the amount of \$25.00 for added claims is enclosed. A petition for 1-Month extension of time and a check in the amount of \$60.00 to cover the petition fee is also enclosed. Authorization is granted to charge our deposit account no. 03-3415 for any additional fees necessary for entry of this Amendment.

The Examiner has objected to applicant's FIGS. 7 and 8 as failing to comply with 37 CFR 1.84(p)(5) because they include reference character "124" not mentioned in the description. Applicant has amended applicant's FIGS. 7 and 8 to delete the reference character "124," thereby obviating the Examiner's objection.

The Examiner has rejected applicant's claim 1 under 35 USC 102(b) as being anticipated by the Houghton (U.S. Pat. No. 614,810) patent. The Examiner has also rejected applicant's claim 1 under 35 USC 102(b) as being anticipated by the Peterson (U.S. Pat. No. 3,256,548) patent, under 35 USC 102(e) as being anticipated by the Kelsey, et al. (U.S. Pat. Pub. No. 2003/0200619) patent application publication, and under 35 USC 102(b) as being anticipated by the Peterson (U.S. Pat. No. 3,178,747) patent. The Examiner has rejected applicant's claims 2-3 under 35 USC 103(a) as being unpatentable over the Peterson '747 patent in view of the Killins (U.S. Pat. No. D402,514) patent. Claims 1-3 have been rejected under 35 USC 103(a) as being unpatentable over the Killins patent in view of the Peterson '747

patent. Applicant's claim 4 has been rejected under 35 USC 103(a) as being unpatentable over the Killins patent in view of the Peterson '747 patent in view of the Sheridan (U.S. Pat. No. 1,538,521) patent. Applicant's claim 5 has been rejected under 35 USC 103(a) as being unpatentable over the Killins patent in view of the Peterson '747 patent in view of the Sheridan patent in view of the Houghton patent. Applicant has amended applicant's independent claim 1 and with respect to this claim, and its respective dependent claims, the Examiner's rejections are respectfully traversed.

Applicant's independent claim 1 has been amended to better define applicant's invention. Applicant's independent claim 1 now recites a tool for performing multiple functions comprising a flexible member formed with a plurality of undulations and a plurality of edges defined by the shape of the member and the curvature of the undulations, the plurality of edges comprising a straight edge parallel to the undulations, a fingernail edge intersecting the straight edge, the fingernail edge having an S-shape and sinuous curvature and intersecting the straight edge at an end of the S-shape making an acute angle with the straight edge, a rounded edge parallel to the undulations, the rounded edge disposed on a side of the member opposite the straight edge, and a further edge having a sinuous curvature disposed on a side of the member opposite the fingernail edge, wherein a sharp tip is formed by the intersection of the straight edge and the end of the S-shape of the fingernail edge making an acute angle with the straight edge.

The construction recited in applicant's amended independent claim 1 is not taught or suggested by the cited art of record. In particular, none of the references cited by the Examiner teach or suggest a multi-functional tool having a fingernail edge intersecting the straight edge, the fingernail edge having an S-shape and sinuous curvature and intersecting the straight edge

at an end of the S-shape making an acute angle with the straight edge, and a sharp tip formed by the intersection of the straight edge and the end of the S-shape of the fingernail edge making an acute angle with the straight edge. Specifically, the Houghton patent, the Peterson ('548 and '747) patents and the Sheridan patent fail to teach or suggest a fingernail edge having an S-shape and sinuous curvature intersecting a straight edge, and thus also do not, and cannot, teach or suggest a sharp tip formed by the intersection of such edges.

The Kelsey, et al. patent application publication shows a spatula tool having a straight fin edge (10) which intersects with a sinuous side edge at the end of the sinuous edge making an obtuse angle with the straight edge. See FIGS. 1 and 5; [0033]-[0034]. Thus the Kelsey, et al. patent application publication also fails to teach or suggest a tool having a fingernail edge having an S-shape and sinuous curvature and intersecting a straight edge at an end of the S-shape making an acute angle with the straight edge, and a sharp tip formed by the intersection of the straight edge and the end of the S-shape of the fingernail edge making an acute angle with the straight edge.

Moreover, the Examiner has acknowledged, with respect to applicant's claims 2-3, that the Peterson '747 patent does not disclose the rounded edge or edges having sinuous curvature. However, the Examiner has argued that the Killins patent discloses a cleaning tool that includes a straight edge (bottommost edge in FIG. 3), a fingernail edge intersecting the straight edge having an S-shape and sinuous curvature (rightmost edge in FIG. 3), a rounded edge disposed on a side of the member opposite the straight edge (uppermost edge in FIG. 3) and a further edge having a sinuous curvature disposed on a side member opposite the fingernail edge (leftmost edge in FIG. 3) wherein a sharp tip is formed at the intersection of the straight edge and the fingernail edge (corner formed on rightmost edge in FIG. 3).

Applicant has reviewed FIG. 3 of the Killins patent, cited by the Examiner, and believes that there is no teaching or suggestion in Killins of a fingernail edge intersecting the straight edge having an S-shape. More particularly, contrary to the Examiner's argument, the rightmost edge of the cleaning tool shown in FIG. 3 of the Killins patent does not have an S-shape as recited in applicant's amended independent claim 1. Instead, the rightmost edge in FIG. 3 of Killins is bell-shaped, when viewed from the right side, and includes ends that are straight and then curve gradually inwardly to form a rounded top. Moreover, the straight end of the bell-shaped edge and the straight edge in Killins intersect at a 90 degree angle.

Thus, the Killins patent, therefore, does not teach or suggest a fingernail edge having an S-shape and sinuous curvature and intersecting a straight edge at an end of the S-shape making an acute angle with the straight edge, and a sharp tip formed by the intersection of the straight edge and the end of the S-shape of the fingernail edge making an acute angle with the straight edge. As previously stated, there is no S-shaped fingernail edge in Killins.

Moreover, even if portions of the rightmost edge in Killins could somehow be construed as S-shaped, there is no teaching or suggestion that an end of the S-shape making an acute angle with the straight edge intersects the straight edge, nor can there be a teaching that such intersection forms a sharp point. As previously stated, the portion of the rightmost edge in Killins intersecting the straight edge is at 90 degree angle to the straight edge and is not an end of an S-shape portion at an acute angle with respect to the straight edge.

Applicant's amended independent claim 1, which recites a fingernail edge intersecting the straight edge, the fingernail edge having an S-shape and sinuous curvature and intersecting the straight edge at an end of the S-shape making an acute angle with the straight edge, and a sharp tip having an acute angle formed by the intersection of the straight edge and the

fingernail edge at the end of the S-shape making an acute angle with the straight edge, and its respective dependent claims, thus patentably distinguish over the Killins, patent, the Houghton patent, the Peterson '548 patent, the Peterson '747 patent, the Sheridan patent and the Kelsey, et al. publication, taken alone or in combination.

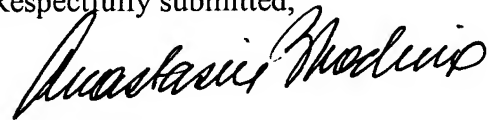
In view of the above, it is submitted that applicant's claims, as amended, patentably distinguish over the cited art of record. Accordingly, reconsideration of the claims is respectfully requested.

If the Examiner believes that an interview would expedite consideration of this Response or of the application, a request is made that the Examiner telephone applicants' counsel at (212) 790-9286.

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Respectfully submitted,



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Amendments to the Drawings

The attached Replacement Sheets of drawings include changes to FIGS. 7 and 8. These sheets, which include FIGS. 7 and 8, replace the original sheets including FIGS. 7 and 8. In FIGS. 7 and 8, reference number 124 and the corresponding leading line have been removed.

Attachments: Replacement Sheets (FIGS. 7 and 8)